

information if the regulation or rule provides that violation of its provisions may result in a civil penalty pursuant to subsection a. of section 234B. of the Act.

(b) If, without violating a classified information protection requirement of any regulation or rule under paragraph (a) of this section, a person by an act or omission causes, or creates a risk of, the loss, compromise or unauthorized disclosure of classified information, the Secretary may issue a compliance order to that person requiring the person to take corrective action and notifying the person that violation of the compliance order is subject to a notice of violation and assessment of a civil penalty. If a person wishes to contest the compliance order, the person must file a notice of appeal with the Secretary within 15 days of receipt of the compliance order.

(c) The Director may propose imposition of a civil penalty for violation of a requirement of a regulation or rule under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed \$100,000 for each violation.

(d) If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

(e) The Director may enter into a settlement, with or without conditions, of an enforcement proceeding at any time if the settlement is consistent with the objectives of DOE's classified information protection requirements.

EFFECTIVE DATE NOTE: At 74 FR 66033, Dec. 14, 2009, § 824.4 was amended by revising paragraph (c), effective January 13, 2010. For the convenience of the user, the revised text is set forth as follows:

**§ 824.4 Civil penalties.**

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(c) The Director may propose imposition of a civil penalty for violation of a requirement of a regulation or rule under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed \$110,000 for each violation.

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**§ 824.5 Investigations.**

The Director may conduct investigations and inspections relating to the scope, nature and extent of compliance by a person with DOE security requirements specified in § 824.4(a) and (b) and take such action as the Director deems necessary and appropriate to the conduct of the investigation or inspection, including signing, issuing and serving subpoenas.

**§ 824.6 Preliminary notice of violation.**

(a) In order to begin a proceeding to impose a civil penalty under this part, the Director shall notify the person by a written preliminary notice of violation sent by certified mail, return receipt requested, of:

(1) The date, facts, and nature of each act or omission constituting the alleged violation;

(2) The particular provision of the regulation, rule or compliance order involved in each alleged violation;

(3) The proposed remedy for each alleged violation, including the amount of any civil penalty proposed; and,

(4) The right of the person to submit a written reply to the Director within 30 calendar days of receipt of such preliminary notice of violation.

(b) A reply to a preliminary notice of violation must contain a statement of all relevant facts pertaining to an alleged violation. The reply must:

(1) State any facts, explanations and arguments which support a denial of the alleged violation;

(2) Demonstrate any extenuating circumstances or other reason why a proposed remedy should not be imposed or should be mitigated;

(3) Discuss the relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE;

(4) Furnish full and complete answers to any questions set forth in the preliminary notice; and

(5) Include copies of all relevant documents.

(c) If a person fails to submit a written reply within 30 calendar days of receipt of a preliminary notice of violation: